



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

HOUSE BILL NO. 232

FRIDAY, FEBRUARY 15, 2013

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE March 22, 2013
3:00 pm
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

1 AN ACT relating to debts owed to local governments.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 44.001 is amended to read as follows:

4 As used in this chapter:

5 (1) "Local government" means any city, county, urban-county government,
6 consolidated local government, charter county government, or unified local
7 government of the Commonwealth; and

8 (2) [;]"Writing" or "written" means letters, words, or numbers, or their equivalent, set
9 down by handwriting, typewriting, printing, photostating, photographing, magnetic
10 impulse, mechanical or electronic recording, or other form of data compilation.

11 ➔Section 2. KRS 44.030 is amended to read as follows:

12 (1) No money shall be paid to any person on a claim against the state in his or her own
13 right, or as an assignee of another, when the person or the person's assignor is
14 indebted to the state or any local government~~[county, city, urban-county~~
15 ~~government, consolidated local government, or charter county government duly~~
16 ~~organized in this state]~~. The claim, to the extent it is allowed, shall first be credited
17 to the account of the person~~[so]~~ indebted to the state, and if there is any balance
18 due the person after settling the whole demand of the state, any certified liquidated
19 debts of any local government~~[county, city, urban-county government, consolidated~~
20 ~~local government, or charter county government of this state]~~ shall be paid if the
21 local government provides information concerning the liquidated debt to the State
22 Treasurer. If there is any balance due the person after settling the whole demand of
23 the state or local~~[; counties, cities, urban-county governments, consolidated local~~
24 ~~governments, or charter county]~~ governments, and if there are not liquidated debts
25 certified against the claim pursuant to KRS 44.065, that balance shall be paid to the
26 person.

27 (2) In case of multiple claims by state agencies, the claims shall be paid as follows:

- 1 (a) First, to any claim made by the Cabinet for Health and Family Services for
 2 past due child support obligations;
- 3 (b) Second, to any claim filed by the Finance and Administration Cabinet,
 4 Department of Revenue, for taxes owed the Commonwealth; and
- 5 (c) Third, to all other state agencies in the order that the claims were filed with
 6 the State Treasury.

7 (3) In the case of multiple claims filed by any local government~~[any county, city,~~
 8 ~~urban county government, consolidated local government, or charter county~~
 9 ~~government duly organized in this state]~~, the claims shall be paid in the order that
 10 the claims were filed with the State Treasury.

11 (4) No money shall be paid to any person on a claim against a local government in
 12 his or her own right, or as an assignee of another, when the person or the
 13 person's assignor is indebted to the local government or the state. The claim, to
 14 the extent it is allowed, shall first be credited to any debt of the person indebted to
 15 the local government, and if there is any balance due the person after settling the
 16 whole demand of the local government, any certified liquidated debts of the state
 17 shall be paid if the state provides the local government with information
 18 concerning the liquidated debt. If there is any balance due the person after
 19 settling the whole demand of the local government or the state, that balance shall
 20 be paid to the person.

21 (5) The Finance and Administration Cabinet shall provide the Cabinet for Health and
 22 Family Services with a quarterly report of all tort claims made against the state by
 23 individuals that the Cabinet for Health and Family Services shall compare with the
 24 child support database to match individuals who have a child support arrearage and
 25 may receive a settlement from the state.

26 (6)~~(5)~~ Each organizational unit and administrative body in the executive branch of
 27 state government, as defined in KRS 12.010,~~[and]~~ the Court of Justice in the

1 judicial branch of state government, and, where feasible, any local government
 2 shall provide information to the State Treasurer concerning any debt it has referred
 3 to the Department of Revenue for collection under KRS 45.241.

4 ~~(7)(6)~~ Each agency, ~~and~~ the Court of Justice, and, where feasible, any local
 5 government shall provide information to the State Treasurer concerning any debt
 6 referred to the Department of Revenue for collection under KRS 45.237.

7 ➔ Section 3. KRS 45.237 is amended to read as follows:

8 (1) As used in KRS 45.237 to 45.239:

9 (a) "Agency" means an organizational unit or administrative body in the
 10 executive branch of state government as defined in KRS 12.010;

11 (b) "Cabinet" means the Finance and Administration Cabinet;

12 (c) "Court of Justice" means the Administrative Office of the Courts, all
 13 courts, and all clerks of the courts;

14 (d) "Debt" means:

15 1. For agencies, a sum certain which has been certified as due and
 16 owing;

17 2. For local governments, a sum certain which has been certified as due
 18 and owing, including but not limited to any delinquent taxes or fees
 19 other than delinquent real and personal property taxes; and

20 3. For the Court of Justice, a legal debt, including any fine, fee, court
 21 costs, or restitution due the Commonwealth, which have been imposed
 22 by a final sentence of a trial court of the Commonwealth and for
 23 which the time permitted for payment pursuant to KRS 23A.205(3) or
 24 24A.175(4) has expired;

25 (e) "Department" means the Department of Revenue;

26 ~~(f)(e)~~ "Court of Justice" means the Administrative Office of the Courts, all
 27 courts, and all clerks of the courts;

~~(d)~~ "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and

(g) "Local government" means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth~~[(e) "Debt" means:~~

~~1. A sum certain which has been certified by an agency as due and owing; and~~

~~2. For the Court of Justice, "debt" means a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or 24A.175(4) has expired}.~~

(2) ~~The [Finance and Administration] cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall [be established and implemented no later than October 1, 2004, and shall] focus first on programs or activities that expend the most federal and general fund dollars. The [Finance and Administration] cabinet shall develop preaudit procedures that meet the unique needs of each agency.~~

(3) In establishing these systems of internal control and preaudit policies and procedures, the ~~[Finance and Administration]~~ cabinet shall:

(a) Consult with each agency within the executive branch to ascertain its unique fraud risks;

(b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;

- 1 (c) Establish systems and procedures for detecting both unintentional errors and
 2 fraudulent misrepresentations that may have occurred in vendor invoices
 3 submitted for payment, applications submitted for benefits, claims for refunds
 4 of amounts previously paid or withheld, and other disbursements;
- 5 (d) Establish systems and procedures for preventing and detecting unintentional
 6 errors and the fraudulent disbursement of funds by state government
 7 employees in the processing, approving, and paying of invoices, refunds,
 8 vouchers, benefit payments, and other disbursements; and
- 9 (e) Consult with the state Auditor of Public Accounts, the Commonwealth Office
 10 of Technology, the American Institute of Certified Public Accountants, the
 11 Association of Certified Fraud Examiners, law enforcement agencies, or any
 12 other entity with knowledge and expertise in the detection and prevention of
 13 fraud.
- 14 (4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider,
 15 or recipient due to error, fraud, or abuse for sixty (60) days after the improper
 16 payment is discovered. If the improper payment has not been recovered after sixty
 17 (60) days, the agency shall certify the improper payment as a debt of the agency and
 18 shall refer all certified debts to the department.
- 19 (5) A local government may, after making reasonable efforts to collect its debts, by
 20 ordinance, resolution, or otherwise pursuant to law, certify its debts that have
 21 been due and owing for more than ninety (90) days to the department for
 22 collection. The department may, by administrative regulation promulgated in
 23 accordance with KRS Chapter 13A, prescribe the form and format of, and the
 24 information required in, referrals by a local government, which may be required
 25 to be made electronically.
- 26 (6) Any funds recovered by an agency within the sixty (60) day collection period
 27 allowed under subsection (4) of this section and prior to referral to the department

1 shall be allocated to the fund from which the improper payment was expended.

2 ~~(7)(6)~~ Each agency shall submit annual summaries of debts due to error, fraud, or
3 abuse, improper payments discovered, and certified debts referred to the department
4 to the Legislative Research Commission. These summaries shall include but not be
5 limited to:

6 (a) Debts owed the Commonwealth that have been identified by the agency, in
7 accordance with the preaudit procedures established under this section, as
8 those resulting from error, fraud, or abuse, of either the payee or the state
9 agency;

10 (b) The aggregate amount of money collected by the agency on those debts during
11 the sixty (60) day period allowed under subsection (4) of this section; and

12 (c) The aggregate amount of certified debts that the agency referred to the
13 department.

14 ~~(8)(7)~~ Each agency shall provide information about each debt due to error, fraud, or
15 abuse that is certified under this section to the State Treasurer for the Treasurer's
16 action under KRS 44.030(1).

17 **(9) Each local government shall, where feasible, provide information about each**
18 **debt that is certified pursuant to this section to the State Treasurer for the**
19 **Treasurer's action under subsection (1) of Section 2 of this Act.**

20 ➔Section 4. KRS 45.238 is amended to read as follows:

21 (1) Debts that are certified by an agency **or by a local government** as provided in KRS
22 45.237 shall be referred to the department for collection. The department shall be
23 vested with all the powers necessary to collect any referred debts.

24 (2) **(a)** For those debts deemed unfeasible or cost ineffective to pursue, the
25 department shall maintain written records of the debt and the reason the debt
26 was deemed unfeasible or cost ineffective to pursue.

27 **(b) In the case of agencies,** these debts shall be written off in accordance with

administrative regulations promulgated under the authority of subsection (6) of this section.

(c) In the case of local governments, these debts shall be returned to the referring local government for further action.

(3) (a) All certified debts of agencies received by the department after the sixty (60) day collection period allowed in KRS 45.237(4), and all certified debts of a local government received by the department after the ninety (90) day collection period allowed by subsection (5) of Section 3 of this Act, shall be subject to:

1. Interest at the tax interest rate determined under KRS 131.183~~[-]~~ on the amount of the debt plus all accruals authorized by law, from the date the debt is certified to the department until it is satisfied~~[-]~~ and

2. A one (1) time twenty-five percent (25%) collection fee imposed on the amount of the debt plus all accruals authorized by law, as of the time of referral.

(b) The department may retain the collection fee.

(c) In the case of agencies and the Court of Justice, recovered funds and interest may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency certifying the debt or improper payment or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts shall be deposited in the budget reserve trust fund established in KRS 48.705, except for Medicaid benefits and funds required by law to be remitted to a federal agency.

(d) In the case of local governments, recovered funds and interest shall be returned to the referring local government for allocation as provided by ordinance, resolution, or as otherwise provided by law.

1 (4) The commissioner of the department may refer to the Attorney General any
 2 unsatisfied claim, demand, account, or judgment in favor of the Commonwealth for
 3 further civil or criminal action under KRS 15.060.

4 (5) (a) The department shall report annually by October 1 to the Legislative Research
 5 Commission on all referred certified debts, including at least a summary of the
 6 debts by agency, fund type, and age, the latter compiled in the following four
 7 (4) categories:

- 8 1. Debts from ninety (90) to one hundred seventy-nine (179) days old;
- 9 2. Debts from one hundred eighty (180) to three hundred sixty-four (364)
 10 days old;
- 11 3. Debts over one (1) year old but less than three (3) years old; and
- 12 4. Debts three (3) years old or older.

13 (b) The annual report shall also include the collection amount of the debts in
 14 paragraph (a) of this subsection and the accounts to which the amounts are
 15 credited.

16 (6) The department shall promulgate administrative regulations in accordance with
 17 KRS Chapter 13A to establish standards that agencies shall use in determining
 18 when to write debts off the books.

19 **(7) This section shall not affect the collection of delinquent taxes by sheriffs or**
 20 **county attorneys under KRS 91A.070 or 134.504.**

21 ➔Section 5. KRS 45.241 is amended to read as follows:

22 (1) As used in this section:

23 (a) "Debt" means:

24 **1. For agencies, a sum certain which has been certified by an agency as**
 25 **due and owing; and**

26 **2. For local governments, a sum certain which has been certified by a**
 27 **local government as due and owing, including but not limited to any**

1 delinquent taxes or fees other than delinquent real and personal
 2 property taxes~~[a sum certain which has been certified by an agency as~~
 3 ~~due and owing]~~;

4 (b) "Liquidated debt" means:

5 1. For agencies, a legal debt for a sum certain which has been certified by
 6 an agency as final due and owing, all appeals and legal actions having
 7 been exhausted;

8 2. For local governments, a legal debt for a sum certain which has been
 9 certified by a local government as final due and owing, all appeals and
 10 legal actions having been exhausted, including but not limited to any
 11 delinquent taxes or fees other than delinquent real and personal
 12 property taxes; and

13 3. For the Court of Justice,~~[means]~~ a legal debt including any fine, fee,
 14 court costs, or restitution due the Commonwealth, which have been
 15 imposed by a final sentence of a trial court of the Commonwealth and
 16 for which the time permitted for payment pursuant to the provisions of
 17 KRS 23A.205(3) or 24A.175(4) has expired;

18 (c) "Agency" means an organizational unit or administrative body in the
 19 executive branch of state government, as defined in KRS 12.010;

20 (d) "Department" means the Department of Revenue;

21 (e) "Court of Justice" means the Administrative Office of the Courts, all courts,
 22 and all clerks of the courts;

23 (f) "Forgivable loan agreement" means a loan agreement entered into between an
 24 agency and a borrower that establishes specific conditions, which, if satisfied
 25 by the borrower, allows the agency to forgive a portion or all of the loan;~~[and]~~

26 (g) "Improper payment" means a payment made to a vendor, provider, or recipient
 27 due to error, fraud, or abuse; and

1 (h) "Local government" means any city, county, urban-county government,
 2 consolidated local government, charter county, or unified local government
 3 of the Commonwealth.

4 (2) Each agency and the Court of Justice shall develop, maintain, and update in a timely
 5 manner an ongoing inventory of each debt owed to it, including debts due to
 6 improper payments, and shall make every reasonable effort to collect each debt.
 7 Within sixty (60) days after the identification of a debt, each agency shall begin
 8 administrative action to collect the debt.

9 (3) The Auditor of Public Accounts shall review each agency's debt identification and
 10 collection procedures as part of the annual audit of state agencies.

11 (4) An agency shall not forgive any debt owed to it unless that agency has entered into a
 12 forgivable loan agreement with a borrower, or unless otherwise provided by statute.

13 (5) For those agencies without statutory procedures for collecting debts, the Department
 14 of Revenue shall promulgate administrative regulations in accordance with KRS
 15 Chapter 13A to prescribe standards and procedures with which those agencies shall
 16 comply regarding collection of debts, notices to persons owing debt, information to
 17 be monitored concerning the debts, and an appeals process.

18 (6) (a) Each agency and the Court of Justice shall identify all liquidated debts,
 19 including debts due to improper payments, and shall submit a list of those
 20 liquidated debts in the form and manner prescribed by the department to the
 21 department for review. The department shall review the information submitted
 22 by the agencies and the Court of Justice and shall, within ninety (90) days of
 23 receipt of the information, determine whether it would be cost-effective for
 24 the department to further pursue collection of the liquidated debts.

25 (b) A local government, after making reasonable efforts to collect its debts, may
 26 by ordinance, resolution, or otherwise pursuant to law, submit a list of its
 27 liquidated debts that have been due and owing for more than ninety (90)

days to the department for review to determine whether it would be cost-effective for the department to pursue collection of the liquidated debts. The department shall review the information submitted by a local government and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the department to further pursue collection of the liquidated debts.

~~(c)~~~~(a)~~ The department may, after consultation with the agency, ~~or the~~ Court of Justice, or a local government, return the liquidated debt to the entity submitting the liquidated debt if:

1. The request for review contains insufficient information; or
2. The debt is not feasible to collect.

Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.

~~(d)~~~~(b)~~ The department shall identify in writing~~,~~ to the submitting agency, ~~or~~ ~~the~~ Court of Justice, or local government, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency, ~~or~~ Court of Justice, or local government shall officially refer the identified liquidated debts to the department ~~cabinet~~ for collection.

~~(e)~~~~(c)~~ The agency, ~~and the~~ Court of Justice, and local government shall retain a complete record of all liquidated debts referred to the department for collection until the debt is collected, ~~or~~ forgiven, or returned as uncollectible.

~~(f)~~~~(d)~~ Each agency, ~~and~~ the Court of Justice, and local government shall make appropriate accounting of any uncollected debt as prescribed by law.

- (7) (a) If the agency recovers the debt funds prior to referral to the department, the agency shall retain the collected funds in accordance with its statutory authority.

- (b) 1. Upon referral of a liquidated debt to the department, the liquidated debt shall accrue the following amounts:
- a. Interest on the total amount of the debt plus legal accruals at the tax interest rate provided in KRS 131.183, from the time of referral until paid;~~;~~ and
- b. A one (1) time twenty-five percent (25%) collection fee on the total amount of the debt plus legal accruals, as of the time of referral;~~[shall attach]~~
- unless the interest and collection fee are waived by the department.
2. The interest and collection fee~~[and interest]~~ shall be in addition to any other costs accrued prior to the time of referral.
3. The department may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt.
4. In the case of agencies and the Court of Justice, any funds recovered by the department after the deduction of the department's cost of collection expenses may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency identifying the liquidated debt or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.
5. In the case of local governments, any funds recovered by the department after the deduction of the department's cost-of-collection expenses shall be returned to the local government referring the

liquidated debt, for allocation as provided by ordinance, resolution, or
as otherwise provided by law.

- (c) Nothing in this section shall prohibit the department from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the department, the agency shall retain funds collected according to the provisions of the agreement.
- (d) This section shall not affect any agreement between the department and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the department on behalf of the agency.
- (e) This section shall not affect the collection of delinquent taxes by sheriffs or county attorneys under KRS 91A.070 or 134.504.
- (f) This section shall not affect the collection of performance or reclamation bonds.
- (8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the department shall pursue collection of the referred debt in accordance with KRS 131.030.
- (9) By administrative regulation promulgated under KRS Chapter 13A, the department shall prescribe the electronic format and form of, and the information required in, a referral.
- (10) (a) The department shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments, referred by agencies and the Court of Justice. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the department; the amount of each referring agency's liquidated debt, by fund type, that has been collected

1 by the department; and the total amount of each referring agency's liquidated
2 debt, by fund type, that the department determined to be cost-ineffective to
3 collect, including the reasons for the determinations.

4 (b) Each cabinet shall report annually by October 1 to the Interim Joint
5 Committee on Appropriations and Revenue on:

6 1. The amount of previous fiscal year unliquidated debt by agency,
7 including debts due to improper payments, fund type, category, and age,
8 the latter to be categorized as less than one (1) year, less than five (5)
9 years, less than ten (10) years, and over ten (10) years; and

10 2. The amount, by agency, of liquidated debt, including debts due to
11 improper payments, not referred to the department; a summary, by
12 criteria listed in subsection (6)(a) of this section, of reasons the
13 department provided for not requesting referral of those liquidated debts;
14 and a summary of the actions each agency is taking to collect those
15 liquidated debts.

16 (c) Beginning on October 1, 2005, the Court of Justice shall report annually by
17 October 1 of each year to the Interim Joint Committee on Appropriations and
18 Revenue the amount of previous fiscal year unliquidated debt by county and
19 whether in the Circuit Court or District Court; and fund type and age, the
20 latter categorized as less than one (1) year, less than five (5) years, less than
21 ten (10) years, and over ten (10) years. The first year for which the Court of
22 Justice shall be required to report is the fiscal year beginning on July 1, 2004
23 and ending on June 30, 2005. The Court of Justice shall not be required to
24 report unliquidated debts in existence prior to July 1, 2004.

25 (d) The Finance and Administration Cabinet shall report annually by October 1 to
26 the Interim Joint Committee on Appropriations and Revenue on the amount of
27 the General Government Cabinet's unliquidated debt by agency, fund type,

1 and age, the latter categorized as less than one (1) year, less than five (5)
 2 years, less than ten (10) years, and over ten (10) years.

3 (11) At the time of submission of a liquidated debt to the department for review, the
 4 referring agency,~~[-or]~~ the Court of Justice, or, where feasible, the local government
 5 shall provide information about the debt to the State Treasurer for the Treasurer's
 6 action under KRS 44.030(1).

7 ➔Section 6. KRS 131.030 is amended to read as follows:

8 (1) The Department of Revenue shall exercise all administrative functions of the state
 9 in relation to the state revenue and tax laws, the licensing and registering of motor
 10 vehicles, the equalization of tax assessments, the assessment of public utilities and
 11 public service corporations for taxes, the assessment of franchises, the supervision
 12 of tax collections, and the enforcement of revenue and tax laws, either directly or
 13 through supervision of tax administration activity in other departments to which the
 14 department~~[-of Revenue]~~ may commit administration of certain taxes.

15 (2) The department~~[-of Revenue]~~ shall have all the powers and duties with reference to
 16 assessment or equalization of the assessment of property heretofore exercised or
 17 performed by any state board or commission.

18 (3) The department~~[-of Revenue]~~ shall have all the powers and duties necessary to
 19 consider and settle tax cases under KRS 131.110 and refund claims made under
 20 KRS 134.580. The department~~[-of Revenue]~~ is encouraged to settle controversies on
 21 a fair and equitable basis and shall be authorized to settle tax controversies based on
 22 the hazards of litigation applicable to them.

23 (4) The department~~[-of Revenue]~~ shall have all the powers and duties necessary to
 24 collect any debts owed to the Commonwealth, or any local government of the
 25 Commonwealth, that are referred to the department by an organizational unit or
 26 administrative body in the executive branch of state government, as defined in KRS
 27 12.010,~~[-and by]~~ the Court of Justice in the judicial branch of state government, and

1 any local government, under Section 3 of this Act and KRS 45.241.

2 ➔ Section 7. KRS 131.565 is amended to read as follows:

3 (1) For purposes of KRS 131.560 to 131.595~~[this section]~~, "state agency" or "state
4 agencies" shall include the Court of Justice and any local government, as those
5 terms are defined in KRS 45.241.

6 (2) No state agency shall request the withholding of any individual income tax refund
7 unless there is specific provision in statute,~~or~~ administrative regulation, or, in the
8 case of a local government, ordinance, for debtor appeal and hearing rights for that
9 particular debt.

10 (3) State agencies having the statutory,~~and~~ regulatory, or other legal provisions
11 described in subsection (2) of this section shall establish claims against Kentucky
12 individual income tax refunds by notifying the commissioner of revenue in writing
13 by a date established by the department~~of Revenue~~ and, by dates agreed to by the
14 department~~of Revenue~~ and each state agency, shall furnish a list of all liquidated
15 debts due the agency for which withholding is required for individual income tax
16 refunds due to be paid to the debtor of the claimant agency. This list shall be
17 submitted in such form and contain such information as may be required by the
18 commissioner of revenue to facilitate identification of the refunds to be withheld.
19 As used in this section the term "liquidated debt" means a legal debt for a sum
20 certain, which has been certified by the claimant agency as final due and owing. The
21 claimant agency must have made reasonable efforts to collect such debt, and must
22 have provided the debtor the opportunity for appeal and formal hearing as provided
23 by statute, administrative regulation, or local ordinance. The claimant agency
24 shall send thirty (30) days' prior written notification to the debtor of the intention to
25 submit the claim to the department~~of Revenue~~ for setoff as provided in KRS
26 131.570.

27 (4) The individual income tax refund withholding procedures provided in KRS 131.560

1 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030
 2 only with regard to sums due to a debtor from the department~~[of Revenue]~~.

3 (5) No state agency shall request the withholding of any individual income tax refund
 4 unless the debt for which withholding is requested is in a liquidated amount.

5 (6) Each state agency requesting the withholding of any individual income tax refund
 6 shall indemnify the department~~[of Revenue]~~ against any and all damages, court
 7 costs, attorneys fees and any other expenses related to litigation which arises
 8 concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund
 9 withholding action requested by such agency.

10 (7) Those state agencies requesting the withholding of individual income tax refunds
 11 shall, on a per unit cost or other equitable basis determined by the department~~[of~~
 12 ~~Revenue]~~, reimburse the department~~[of Revenue]~~ for all development,
 13 implementation and administration costs incurred but not otherwise funded under
 14 the provisions of KRS 131.560 to 131.595.

15 (8) The department~~[of Revenue]~~ may decline the withholding of individual income tax
 16 refunds from agencies if the request would adversely impact the operation of the
 17 department~~[of Revenue]~~.

18 ➔Section 8. KRS 131.570 is amended to read as follows:

19 (1) Upon determining that a pending individual income tax refund is subject to setoff as
 20 authorized under this section, the debtor shall be notified in writing by the
 21 department~~[of Revenue]~~ of the claim made against such refund by the named
 22 claimant agency, and of the department's~~[Department of Revenue's]~~ intention to set
 23 off the refund against the debt to the claimant agency. The notice shall provide that
 24 the debtor within thirty (30) days from the date of the notice may request a hearing
 25 before the claimant agency as provided by statute or local ordinance. No issues at
 26 such hearing may be considered that have been litigated previously and the debtor,
 27 after being given due notice of rights of appeal, must exercise such rights in a timely

1 manner. The decision of the claimant agency shall be subject to appeal as all other
2 decisions rendered by the claimant agency. No funds shall be transferred to a
3 claimant agency until the debtor's appeal rights have been exhausted.

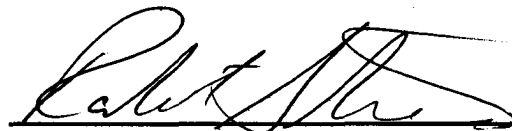
4 (2) Any excess of the pending refund amount over the total claim filed against such
5 refund shall be promptly issued to the taxpayer by the department~~[of Revenue]~~.

6 (3) In the event funds transmitted to a claimant agency are subsequently determined by
7 the claimant agency to be in excess of the liquidated debt, such claimant agency
8 shall promptly refund the excess to the taxpayer.

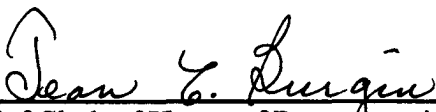
9 (4) In the event the department~~[of Revenue]~~ erroneously transfers funds to a claimant
10 agency, the claimant agency shall immediately upon notification thereof reimburse
11 the department~~[of Revenue]~~ for the amount erroneously transmitted to such agency.
12 The department~~[of Revenue]~~ shall promptly refund to the taxpayer the appropriate
13 amount of such returned funds with interest as provided in KRS 131.183(2).



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-22-13